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RUEHDR/AMEMBASSY DAR ES SALAAM PRIORITY 5050  
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RUEHKM/AMEMBASSY KAMPALA PRIORITY 1784  
RUEHLO/AMEMBASSY LONDON PRIORITY 2129  
RUEHFR/AMEMBASSY PARIS PRIORITY 2094  
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E.O. 12958: N/A  
TAGS: [KDEM](#) [PGOV](#) [PREL](#) [KE](#)  
SUBJECT: PRESIDENT HAND PICKS ELECTORAL COMMISSIONERS;  
OPPOSITION CRIES FOUL

REF: 06 NAIROBI 5207

This message is sensitive but unclassified, please handle accordingly.

¶1. (SBU) SUMMARY: In what opposition leaders are calling a "blow to multi-party democracy," President Kibaki on January 11 appointed nine Commissioners to the Electoral Commission of Kenya, without consulting opposition parties. Although completely within Kenyan law, the move sets a bad precedent for Kibaki's use of his presidential authority. Kenyans, who voted in the government as a coalition based on consultation and consensus, are understandably disappointed. END SUMMARY.

¶2. (SBU) Following months of speculation and scrutiny into how President Kibaki would handle the filling of vacancies on the Electoral Commission of Kenya (ECK) ahead of the general elections later this year, Kibaki on January 11 named nine new Commissioners. As opposition politicians and the ECK's Chairman feared, the President did so without consulting opposition leaders. Although, as the Law Society of Kenya (LSK) quickly pointed out, the President has the constitutional authority to make appointments solely at his discretion, tradition has held otherwise. The result of a "gentleman's agreement" in 1997, nominations have been made, until now, by all parties in Parliament. With a large number of seats previously held by opposition-nominated commissioners empty (9 out of 22) just months before the next election later this year, the matter of new Commissioners had taken on high political significance. Opposition party members feared the President would "stock" the ECK with Commissioners favorable to him to smooth the way for his re-election.

PATRONAGE RULES

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¶3. (SBU) The president's unilateral action has infuriated opposition and civil society leaders who are vowing to take action. MP and presidential hopeful Kalonzo Musyoka decried the nominations, characterizing the President's move as a setback for Kenya's democratic development. An officer of the Institute for Education in Democracy (IED), a Kenyan NGO specializing in voter education, highlighted his concerns to poloff that the appointments would seriously undermine voter confidence in the electoral system in Kenya. The cronyism behind the new appointments would lead voters to question the

integrity of the coming election. However, he continued, the move could backfire in that it has given the opposition an issue to take to voters against the government.

¶4. (SBU) A small bright spot, the new commissioners represent a wide geographic spectrum, include 3 women, are relatively younger and better educated than past commissioners, and many are well-respected lawyers. However, each one has a link to someone in Kibaki's inner circle and three of them are very clearly Kibaki's men. Muturi Kigano, currently on the board of the Kenya Ports Authority, has in the past served as Kibaki's lawyer. Luciano Riunga Raiji, also from the Mt. Kenya area, is the younger brother of Aaron Ringera, Director of the Kenya Anti-Corruption Commission (KACC). Samuel Arap Ng'eny, a longtime Kibaki supporter and Kalenjin, was formerly Deputy Speaker of the National Assembly. With the addition of the new Commissioners, all but three of the 22 commissioners are clearly pro-government.

ACTIONS SPEAK LOUDER...

¶5. (SBU) Less than two weeks ago in his New Year's Day address President Kibaki pledged to "forge a stronger sense of national unity," and build consensus on all outstanding matters of national importance." The January 11 appointments send entirely the opposite message, critics argue. The IED raised concerns that the Kibaki's motivation was purely political. Also ironic is that Kibaki himself had benefited from Moi's respect for the 1997 "agreement," having been consulted on previous nominations as an opposition member.

COMMENT

¶6. (SBU) The ECK appointments are a poorly calculated first step of the election year. Kenyans do not need to recall that far back to be reminded of a time when heavy-handed authoritarianism (Moi) was the order of the day. Civil liberties in Kenya have grown a great deal since then; the President's actions yesterday will surely concern voters about what to expect from a second Kibaki administration should he be re-elected. END COMMENT.  
RANNEBERGER